

Montie S. Day, Attorney (Cal Bar No. 73327)
 Laura R. Space, Attorney (Cal Bar No. 78273)
 LAW OFFICES OF LAURA R. SPEASE
 7700 Edgewater Drive, Suite 147
 Oakland, California 94621
 Spease-Tel: (510) 569-8558
 Day-Tel: (208) 280-3766

Montie S. Day, Attorney (Cal Bar No. 73327)
 DAY LAW OFFICES
 P. O. Box 1045
 Shoshone, Idaho 83352
 Tel: (208) 280-3766

Attorneys for Estela D. Reed

UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

PRINCIPAL LIFE INSURANCE
 COMPANY,

Plaintiff,

vs.

VINA CUESTA STATUA, INOCENCIO
 S. AMBE, CORAZON AMBE
 CABALES, ESTELA D. REED, and
 DOES 1-10,

Defendants.

ESTELA D. REED,

Cross-claimant,

v.

VINA CUESTA STATUA, INOCENCIO
 S. AMBE, and CORAZON AMBE
 CABALES,

Cross-defendants.

Case No. C-07-4915 CW

MEMORANDUM IN SUPPORT OF
 MOTION FOR COURT ORDER
 DISCHARGING PRINCIPAL
 LIFE INSURANCE COMPANY
 FROM ANY LIABILITY WITH
 RESPECT TO THE INSURANCE
 POLICY AND FUNDS DEPOSITED
 WITH THIS COURT, AND FOR
 ORDER FOR PAYMENT OF
 ATTORNEY FEES AND COSTS TO
 PRINCIPAL LIFE INSURANCE
 COMPANY IN THE AMOUNT OF
 \$2,500.00 FROM INTERPLED FUNDS

Date: February 14, 20089
 Time: 2:00 p.m.
 Judge Claudia Wilken

1 The instant interpleader was filed by Principal Life Insurance Company ("Principal
2 Life") naming as defendants Vina Cuesta Statua, Estela D. Reed, Inocencio S. Ambe and
3 Corazon Ambe Cabales. Principal Life faced with competing claims for the payments under
4 a life insurance policy issued to Natividad A. Cuesta (deceased), Policy Number 4346789
5 issued December 17, 1993. Along with filing the interpleader action, posted with the Clerk
6 of the Court the sum of \$57,433.54 representing the amount due under the policy.

7 Defendant Estela Reed ("Reed") claims 100% of the rights to the insurance proceeds
8 based upon a designation of beneficiary dated April 2, 2007.

9 Defendant Vina Cuesta Statua claims 94% of the rights to the insurance proceeds
10 based upon a designation of beneficiary dated December 20, 2006, which also therein named
11 Inocencio Ambe as 3% beneficiary interest holder and Corazon Cabales as a 3% beneficial
12 interest holder.

13 Natividad A. Cuesta died on April 8, 2007.

14 Where controversy has arisen between alleged beneficiaries of life insurance policy,
15 the insurer is entitled to interplead the money with the Court and obtain a discharge from any
16 liability. *Mutual Life Ins. Co. v Patterson (1936, DC NY) 15 F Supp 759.*

17 Jurisdiction and Venue

18 There appears no question that jurisdiction and venue is proper in this action, and that
19 Principal Life has the right to interplead the funds and be discharged from liability. *Title 28,*
20 *United States Code Sections 1335, 1397 and 2361.* Furthermore, this Court has personal
21 jurisdiction with respect to the named defendants. *Title 28, United States Code 2361.*

22 The Interpleaded Funds

23 Principal Life has posted and deposited with the Clerk of the Court the insurance
24 proceeds in the amount of \$57,433.54. (Request for Judicial Notice)

25 Attorney Fees and Costs

26 An interpleading plaintiff can be allowed costs, including reasonable attorney fees,
27 out of funds deposited in court. *Massachusetts Mut. Life Ins. Co. v Morris (1932, CA9 Cal)*
28

1 *61 F2d 104.*

2 Principal Life has agreed that, with the defendants moving for the order of discharge,
3 its claim for attorney fees/costs will be \$2,500.00. This is agreeable to defendants Estela
4 Reed and Vina Cuesta Statua (who, under either designation of beneficiary described above)
5 would represent either 100% of the interest in the proceeds or 94% of the proceeds, as a
6 minimum. (See Declaration of Montie S. Day)

7 Accordingly, Principal Life, defendant Vina Cuesta Statua and Estela D. Reed, agree
8 to the payment of \$2,500.00 of the interpled funds as attorney fees and costs to Principal
9 Life. Notice of this motion is being served on the minority potential claimants and
10 defendants who, at best, can recover no more than 6% interest. However, it is noted that
11 under any circumstances, the interest of defendants Estela D. Reed and/or Vina Cuesta Statua
12 is more than the \$2,500.00 (representing 94% of the deposited funds at a minimum) such that
13 any minority interest may not be impacted notwithstanding any objection in that the court
14 may eventually assess the payment of \$2,500.00 from the interest of Estela D. Reed and/or
15 Vina Cuesta Statua.

16 CONCLUSION

17 For the reasons set forth above, it is requested that Principal Life be fully discharged
18 of any liability and/or obligations under the insurance policy or with respect to the interpled
19 funds, and that it be awarded costs and attorney fees in the amount of \$2,500.00 to be paid
20 from the interpled funds.

21 Date: December 26, 2007

Day Law Offices

22 /s/ Montie S. Day

23 By: _____
Montie S. Day, Attorney